



NASA DESK GUIDE

FOR

TABLE OF

DISCIPLINARY OFFENSES AND PENALTIES

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DG - 03
March 2006

GUIDANCE TABLE OF DISCIPLINARY OFFENSES AND PENALTIES FOR EMPLOYEES IN THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION (NASA)

1. PURPOSE

This Table is a guide to use when determining whether and/or to what extent formal disciplinary action is necessary in dealing with issues of employee misconduct.

2. DEFINITIONS

Formal disciplinary actions include written reprimands, suspensions, reductions in grade or pay, and removals. The term "reprimand" means a written reprimand, which is filed in the employee's Official Personnel Folder, for a period of up to two years. The terms "suspension," "grade," "pay," and "removal" have the meanings assigned in 5 U.S.C. 7501 and 7511.

Informal discipline (i.e., oral or written admonishment) is not made a matter of record in the employee's Official Personnel Folder. However, such discipline, along with other relevant information such as memoranda for the record, the supervisor's notes, and letters of instruction, may be considered when determining an appropriate penalty for a current offense.

As listed in the Table, "days" means calendar days.

3. GUIDANCE

a. **Identifying and describing offenses:** This Table is not intended to cover every possible type of offense or to provide a series of prescriptions to be matched. For example, if a particular offense listed in the Table is not appropriate as a description of the offense committed, do not try to "force fit" the description to a match with the Table but describe it in terms appropriate to the situation. [However, the description of the offense, once decided upon, should remain the same for all subsequent written references to the offense.] Some of the items listed in the Table combine several offenses, separated by semicolons or connected by the word "or" in one statement. When describing charges against a particular employee, use only the applicable part of a listed offense. Write charges to the standards of specificity required by the Merit Systems Protection Board. Supervisors should be advised to seek assistance from their Center's human resources staff to ensure adherence to these standards.

b. Determining penalties:

(1) The ranges of penalties shown in the Table are those which are considered to be most typical for offenses of the nature indicated. The Table provides for more serious penalties for second and subsequent incidents of employee misconduct. This is in keeping with progressive discipline, with the focus being on rehabilitating employees by taking the least serious corrective action necessary to ensure that further offenses are not committed. In considering the time frame for determining whether an offense is a second or subsequent offense, the usual "reckoning period" is within four years preceding the date of the current offense. Nevertheless, if previous offenses were serious in nature or represent a pattern of misconduct, a longer period of time may be considered. Note that a subsequent offense does not have to be a repeat of the first offense; e.g., if an employee is disciplined for being absent without leave (AWOL) and then faces charges of insubordination, the latter penalty can be considered as a second offense. The first action could include a statement such as "future incidents of this or other misconduct may result in more severe disciplinary action possibly including removal from the Federal Service."

(2) The penalty for a given offense may be less than the minimum penalty shown, or greater than the maximum penalty shown in the Table. This depends largely on whether, and to what extent, the "Douglas" factors come into play or how egregious the act was. In the case of *Douglas vs. Veterans Administration*, 5 M.S.P.R. 280 (1981), the following factors may influence the decision as to whether any formal disciplinary action should be imposed at all, or whether such action might be less severe (mitigating) or more severe (aggravating) than the typical range shown in the Table of Offenses and Penalties. There is no requirement to address all of these factors; consider only those which apply:

- The nature and seriousness of the offense and its relation to the employee's duties, position, or responsibilities, including whether the offense was intentional, technically inadvertent, committed maliciously or for gain, and how frequently it was repeated;
- The employee's job level and type of employment, including supervisory or fiduciary role; contacts with the public; and prominence of the position;
- The employee's past disciplinary record;
- The employee's past work record, including length of service, performance on the job, ability to get along with fellow workers, and dependability;

- The effect of the offense upon the employee's ability to perform at a satisfactory level and its effect upon supervisor's confidence in the employee's ability to perform assigned duties;
- The consistency of the penalty with those imposed upon other employees for the same or similar offenses;
- The consistency of the penalty with any applicable agency table of penalties;
- The notoriety of the offense or its impact upon the reputation of the agency;
- The clarity with which the employee was on notice of any rules that were violated in committing the offense or had been warned about the conduct in question;
- The potential for the employee's rehabilitation;
- Mitigating circumstances surrounding the offense, such as unusual job tensions; personality problems; mental impairment; harassment; or bad faith, malice, or provocation on the part of others involved in the matter; and
- The adequacy and effectiveness of alternative sanctions to deter such conduct in the future by the employee or others.

c. **Penalties.** Penalties for offenses not listed should be determined by the supervisor in consultation with the Center's human resources staff. Generally, such penalties should be consistent with the range of penalties shown for comparable offenses listed in the Table, unless application of the Douglas factors supports a penalty outside that range or if a statutory penalty applies such as willful misuse of a Government vehicle. In addition, actions taken on the basis of off-duty misconduct must show a nexus between the offense(s) and the efficiency of the Government service. Consider, also, the need for reasonable accommodation and/or firm choice when there are health or related factors.

d. **Alternative Discipline.** There may be other actions taken in lieu of formal discipline which are the equivalent of formal discipline and are part of the disciplinary process. Examples include, but are not limited to, settlement agreements or letters that state they are in lieu of whatever formal discipline that would normally be imposed.

NASA TABLE OF DISCIPLINARY OFFENSES AND PENALTIES

| | <u>First Offense</u> | <u>Second Offense</u> | <u>Third Offense</u> |
|--|--|-------------------------------|-----------------------------|
| <u>Attendance and Leave</u> | | | |
| 1. Failure to follow established leave procedures. | Written reprimand to 14-day suspension | 3-30 day suspension | Removal |
| 2. Failure to follow established work schedule. | Written reprimand to 14-day suspension | 3-30 day suspension | Removal |
| 3. Unexcused or unauthorized absence from the job during working hours or any scheduled day of work (AWOL), including tardiness. | Written reprimand to 14-day suspension | 3-30 day suspension | Removal |
| <u>Conduct on the Job</u> | | | |
| 4. Borrowing money from, obtaining co-signature of, or coercing subordinates to lend money or co-sign for financial obligations. | Written reprimand to removal | 3-day suspension to removal | 7-day suspension to removal |
| 5. Discourteous conduct to the public. | Written reprimand | 1-7 day suspension to removal | 7-day suspension to removal |
| 6. Disrespectful conduct; creating a disturbance; use of abusive or obscene language to or about others; or making slanderous, defamatory, disparaging or knowingly false statements to or about others. | Written reprimand to removal | 3-day suspension to removal | 7-day suspension |
| 7. Engaging in dangerous horseplay; threatening or attempting to inflict bodily injury to another; fighting; negligent or intentional injury to person or property of others. | 3-day suspension to removal | 7-day suspension to removal | Removal |
| 8. Failure or delay(s) in carrying out official assignments or orders. | Written reprimand to 3-day suspension | 3-14 day suspension | 7-day suspension to removal |

| <u>Conduct on the Job (Cont.)</u> | <u>First Offense</u> | <u>Second Offense</u> | <u>Third Offense</u> |
|---|---|------------------------------|-----------------------------|
| 9. Gambling or unlawful betting or promotion of gambling or lotteries on Government premises or while on duty. [5 CFR 735.201] | Written reprimand to 3-day suspension | 3-day suspension to removal | 7-day suspension to removal |
| 10. Prohibited gifts to official supervisors. This includes soliciting contributions for a gift or present to those in superior official positions; accepting prohibited gifts or presents from Government employees receiving lower salary, or making prohibited donations as a gift or present to official supervisors [5 U.S.C. 7351]. | Written reprimand to 14-day suspension | 7-day suspension to removal | Removal |
| 11. Insubordination/disobedience to authorities or refusal to carry out any proper order. | Written reprimand to removal | 3-day suspension to removal | Removal |
| 12. Loafing, willful idleness, wasting time, or sleeping on duty when safety of persons or property not endangered. See #35. | Written reprimand to 5-day suspension | 3-day suspension to removal | 7-day suspension to removal |
| 13. Negligence or careless workmanship in performance of duty resulting in waste of public funds, inefficiency, or delay in production; covering or attempting to conceal defective work; removing or destroying same without permission. | Written reprimand to 7-day suspension | 3-14 day suspension | 7-day suspension to removal |
| 14. Possession, use, or being under the influence of drugs. | Removal (see NASA Plan for a Drug-free Workplace – NPG 3792.1A) | | |
| 15. Refusal to cooperate in an Investigation. | Written reprimand to removal | 1-day suspension to removal | 7-day suspension to removal |
| 16. Requiring/allowing subordinates to perform non-official work. | Written reprimand to removal | 3-day suspension to removal | 7-day suspension to removal |

| <u>Conduct on the Job (Cont.)</u> | <u>First Offense</u> | <u>Second Offense</u> | <u>Third Offense</u> |
|--|------------------------------|------------------------------|-----------------------------|
| 17. Solicitation or acceptance of gift or gratuity which might reasonably be interpreted as tending to influence the performance of official duties. | Written reprimand to removal | 7-day suspension to removal | Removal |
| 18. Striking or other work stoppage or slowdown. | Removal | | |
| 19. Unauthorized possession of guns or other weapons on government premises. | Written reprimand to removal | Removal | |
| 20. Unauthorized possession or being under the influence of alcohol while on duty. | Written reprimand | 3-day suspension to removal | 7-day suspension to removal |

Hostile Work Environment/Discrimination-Related Issues

| | | | |
|--|-----------------------------|-----------------------------|---------|
| 21. Harassing, threatening, or taking reprisal against an employee as a result of or in anticipation of a grievance, appeal, complaint, or other exercise of legal rights. | 1-day suspension to removal | 3-day suspension to removal | Removal |
| 22. Discrimination or harassment against one or more individuals on the basis of sex, race, religion, color, age, national origin, handicapping condition, marital or parental status, sexual orientation, or political affiliation. | 1-day suspension to removal | 3-day suspension to removal | Removal |

Outside Employment and Interests

| | | | |
|--|---------------------------------------|---------------------|-----------------------------|
| 23. Conducting unauthorized personal business or other affairs while on duty status; unauthorized canvassing, soliciting, or peddling. | Written reprimand to 3-day suspension | 3-14 day suspension | 7-day suspension to removal |
|--|---------------------------------------|---------------------|-----------------------------|

Outside Employment (Cont.)

24. Engaging, directly or indirectly, in financial transactions which create real or apparent conflicts of interest.

25. Failure to obtain required clearance of official speech or article.

26. Failure to pay just financial obligation, such as Federal, State, or local taxes, without sufficient cause. [5 CFR 2635.101(12)]

27. Improper political activities [5 U.S.C. 7326]

28. Performing unauthorized employment or engaging in private business activities of a prohibited nature.

First Offense

Written reprimand to removal

Written reprimand to 3-day suspension

Written reprimand to 3-day suspension

Removal (on appeal, MSPB may mitigate to 30-day suspension by unanimous vote [5 U.S.C. 7326])

Written reprimand to 3-day suspension

Second Offense

3-day suspension to removal

3-14 day suspension

3-7 day suspension

3-14 day suspension

Third Offense

Removal

7-day suspension to removal

7 day suspension to removal

7-day suspension to removal

Personal Conduct or Character

29. Conduct demonstrating untrustworthiness or unreliability.

30. Falsification, misstatement, exaggeration, or concealment of fact in connection with employment, promotion, attendance, or any record, investigation, or other proper proceeding.

31. Immoral, indecent, unethical, criminal, infamous, dishonest, or notoriously disgraceful conduct.

32. Use or attempted use of influence or pressure to secure favor in the appointment, transfer, advancement, or retention of a relative in NASA.

Written reprimand to 3-day suspension

Written reprimand to removal

Written reprimand to removal

1-day suspension to removal

3-14 day suspension

3-day suspension to removal

3-day suspension to removal

3-day suspension to removal

7-day suspension to removal

Removal

7-day suspension to removal

Removal

Personal Conduct/Character (con't)

33. Violations of merit system principles

First Offense

1-day suspension
to removal

Second Offense

3-day suspension
to removal

Third Offense

7-day suspension
to removal

Safety and Health

34. Requiring/allowing subordinates to perform work in unsafe/unhealthy conditions.

Written reprimand
to removal

3-day suspension
to removal

7-day suspension
to removal

35. Sleeping on duty when safety of persons or property is endangered. See #12.

1-day suspension to
removal

3-day suspension to
removal

Removal

36. Unauthorized smoking.

Written reprimand to
3-day suspension

3-10 day suspension

7-day suspension to
removal

37. Violation of traffic laws, safety regulations, instructions for safe driving or other prescribed safe practices; failure to report accident or injury; failure to use protective clothing/equipment.

Written reprimand
to removal

3-day suspension to
removal

7-day suspension to
removal

Security

38. Violation of an information technology security requirements or policies.

Written reprimand
to removal

1-day suspension
to removal

7-day suspension
to removal

39. Violation of a security regulation including failure to comply with instructions of security personnel, or to safeguard classified material.

Written reprimand
to removal

3-day suspension
to removal

7-day suspension
to removal

Use of Government Property**First Offense****Second Offense****Third Offense**

40. Failure to follow established policies regarding the personal use of Government office equipment including information technology

Written reprimand to removal

3-day suspension to removal

7-day suspension to removal

41. Willful or negligent loss, damage, or defacement of Government property.

Written reprimand to removal

3-day suspension to removal

7-day suspension to removal

42. Improper use of official identification/credential card or badge, official information, or official authority without official authorization.

Written reprimand to removal

1-day suspension to removal

7-day suspension to removal

43. Operation of Government-owned or leased vehicle without valid license.

Written reprimand to 14-day suspension

3-day suspension to removal

Removal

44. Possession, downloading, or transmission of pornographic/sexually explicit materials by computer or other means.

Written reprimand to removal

3-day suspension to removal

Removal

45. Unauthorized possession of Government property or the property of others.

Written reprimand to removal

3-day suspension to removal

Removal

46. Use of or allowing use of Government funds or property, credit cards, personnel, or other resources for unauthorized purposes; willful or negligent loss, damage, or defacement.

Written reprimand to 14-day suspension

3-day suspension to removal

7-day suspension to removal

47. Use of or allowing use of Government motor vehicles, aircraft, etc., including the unauthorized transportation of passengers for other than official purposes.

Written reprimand to 14-day suspension

3-day suspension to removal

Removal

48. Willful misuse of a Government vehicle [31 U.S.C. 1349(b)].

30-day suspension to removal

Removal